Cover Page

00-1697

No.

IN THE

Supreme Court of the United States

CHRISTIAN WILLIAMS

Petitioner

v.

[illegible]

On Petition For Writ Of Certiorari

To The United States Court of Appeals [illegible]

PETITION FOR WRIT OF CERTIORARI

Christian Williams
Pro Se
[illegible]
[illegible]
1-[illegible]

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SUPREME COURT, U.S.

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412 PP

Case Title

The questions presented in this case
to the requisite framework required, in
plaintiff in a Title VII discrimination
treatment cases. They concern the dis
among the various Circuit Court of appe
plaintiffs could make out a prima Facie case, un
Douglas and its progeny. They also concern the differing
... application among the various Circuit Courts, as
of Summary Judgment must prevail in Ti
Title VII cases. Finally, these questions seek
find out under what circumstances or f
reasons, a Circuit Court of appeals could
appellate a dismissing and refusing to hear
[illegible] 3-Judge panel ignores
does and finds as favorable to appellant
a case can result in a "right" of appeal? The re
case will undoubtedly assist both parties in
courts, in the future, confront under Title VII th
Title VII cases.

List of Parties:

6

(1) Questions Presented (Rule 14.

Rules of Supreme Court

Brief Statement:

(1) Whether, in a ~~racial discrimination~~ under ~~the disparate treatment~~ Clause Rights Act of 1964, ~~Title VII~~, the and presumptions of McDonnell-Doug ~~Texas Department of~~ Title ~~St. Mary's Honor Center v. Hick~~

(A) What Constitutes a prima facie case treatment Clause of the Civil Right Act

→

(C) Whether, a United States Court of Appeals an appellant's petition for a rehearing for banc, combined, on the basis of a of its members?

one circuit

(D) Whether the Standards, and granting a judgement as a matter of law, pursua 56, is the same as ~~the Standards~~ fo a Cross-motion Summary judgement same Rule?

(B) What can an employee do, when in the course of, they are faced with actions perpetrated by their employe to be ~~offensive~~, physically & emotionally threatening to (1) hara

List of Parties:

Petitioner,
Christian Williams,
Pro Se,
4709 Draper Road,
Raleigh, NC 27616
1-919-790-1407

Respondent.
Corporate Express. Delivery Systems.
Counsel of Record for Respondent,
Richard F. Kane,
Kimberly Q Charchenis,
McGuire Woods Battle & Boothe, LLP
3700 Bank of America Plaza,
101 South Tryon Street,
Charlotte, NC 28280-0001.

6 c. Table of Contents:

(I.) Questions presented for Review.

(ii) List of parties to this proceeding in Circuit Court of Appeals.

(iii). Table of Contents

(IV.) Table of Cited Cases

(V) Jurisdiction [illegible] Rules of Supreme Court

(VI) Federal Statutes / Authorities involved

(vii) Statement of the Case.

(VIII) Arguments for Granting of Writ.

(VIIII) Conclusion

(X.) Appendix. [illegible]

D.) Table of Cited Cases. TOC - RCA Pg

(a) McDonnell-Douglas Vs. Green, 411 U.S. 792 (

(b) Texas Department of Community Affairs V. 450 U.S. 248, 254 (1981).

(c) St. Mary's Honor Vs. Hicks, 509 U.S. 502 (1

(d) Reeves V. Sanderson Plumbing Products, Inc. 133 (2000).

(e) Kolstad V. American Dental Association, 52

(f.) Faragher V. City of Boca Raton, 524 U

(g.) Harris V. Forklift Systems, Inc. 510 U.S. 1

(h.) O'connor V. Consolidated Coin Caterers (308 (1996)

(i.) Teamsters V. U.S, 431 U.S. 324, 35[illegible] (1977)

(E.) Jurisdiction on Writ of Certiorari

This petition for a Writ of Certiorari is
pursuant to rule 10, of the Rules of t
court of the United States; Specific
decisions of the 4th Circuit court, conf
those of the other Circuit court of appe
cases, (2) the decision to "deny rehear
hearing en banc, on the basis of a p
represents a departure from the accep
course of judicial proceeding.

(f.) federal Statutes/Authorities involved

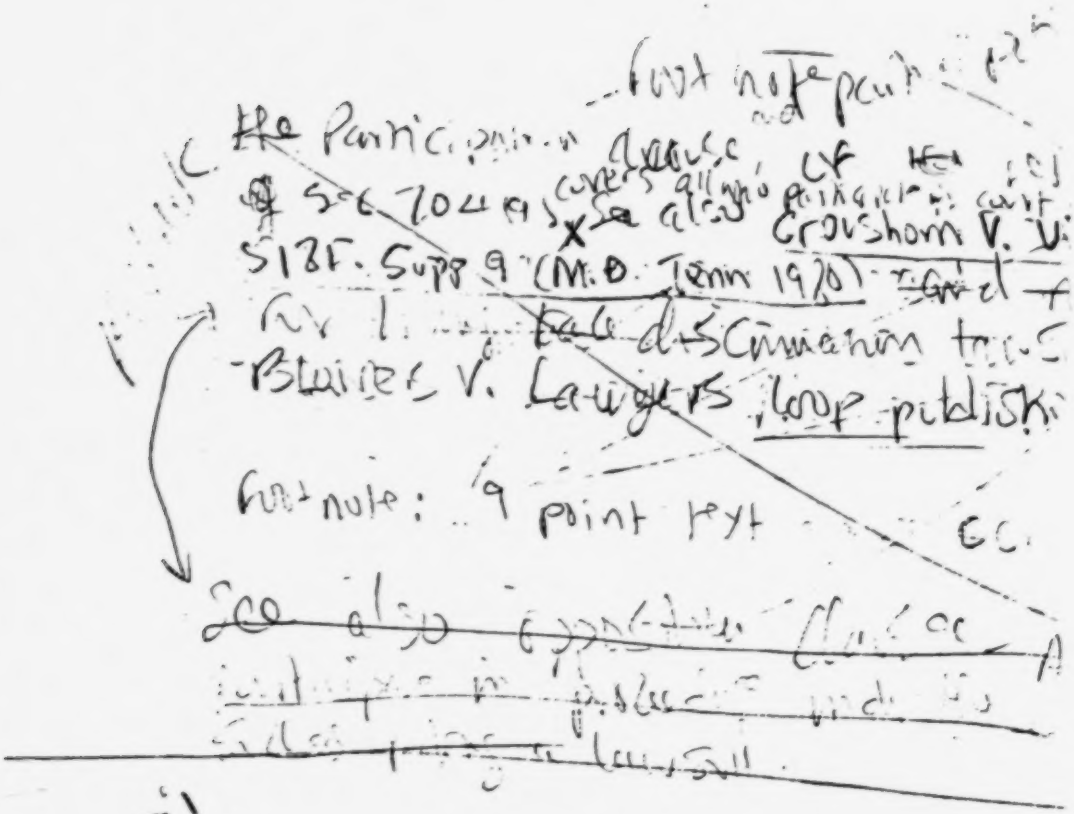
42 U.S.C 2000e et seq.

Title 28, U.S.C, annotated.
Federal Rules of Evidence
Federal Rules of Civil Procedure (F.R.Civ.P.)

Federal Rules of Appellate Procedure (F.R.A.P.)

Rules of the Supreme Court of the United
Local Rules of the Fifth Circuit U.S.Court of

(IV.)



footnote 1

The participation clause (and opposition clause) of retali
Sec. 704(a) covers "all who participate in
the Civil Rights Act of 1964,

See Hunter v. Allis-Chalmers Corp., Eng. Div., 797 F.2d
O'Neal v. Ferguson Construction Co., 237 F.3d 1248 (

(VII) Statement of Case and Facts

This petition on a writ of certiorari is filed
review of the judgment of the United States C
for the Fourth Circuit, entered in this action on
and March 19, 2001, see A-15. The original case
US U.S. District Court for the Eastern Distri
Apr. 12, 1999 under the disparate treatment
the Civil Rights Act of 1964, Title VII, 42
et. seq., alleging race discrimination in the
the claim of retaliation was made in con
and as a corollary to this case under Section
of the Civil rights act of 1991 Sec. 1981a & 1977(a)
inter alia, Back pay and punitive and compensatory
there is intent and a reckless disregard for a
federally protected civil rights.

The evidence shows that
In this case, petitioner, Christine Williams
as a carrier on Route 44 for respondent
United States, a position
she held for
after about 1 year of service, for filing
on April 12, 1999 (one day earlier)
Route 44 was an overnight shift that
and ended at 5:30am. Petitioner who is
44 years old

2 more pages

supervised by several individuals incl
Newton, human Resources Manager and Sec
command at respondents Cary location an
General Manager and the highest ranking man
location, both of whom are white. Petitioner's duties on Route 441,
Route 62, required him to pick up and
Pickcages in the following cities towns, c
counties in North Carolina: Cary, Durham
Raleigh/RDU Airport, Rocky Mount, Wils
Washington and Tarboro/Edgecombe count
The evidence in this case shows that be
about July 13, 1998, while in Respondent's
and in the normal course of his employ
suffered numerous acts of adverse discri
including, inter alia, intimidation, victimization, physical in
and retaliation. See _____. Rebuttal co
the evidence shows that these acts
perpetrated against similarly situated
outside protected class. Thus, the cumulative
Lucas v. Dial Corp., 110 F.3d 210 (2nd Cir. 1997). Or the acts constitute discrimination in the evi
that these acts were persistent, intentio
and perpetrated with a reckless indiffere
petitioner's federally protected civil rights
of Title VII.
Specifically, the evidence shows several in
petitioner was called at home by Sharon

C

Respondent

Petitioner

new → to inquire about packages that he had
might be here. This despite the fact that at
petitioners route-shift. he was required to
signed original of his route sheet indicating
of delivery, amount of delivered packages and
delivered packages. Everytime Sam Newton pl
he threatened petitioner with police arrest
back a little later to say that he had ran
missing packages. Never once did Sam Ne
petitioner. The evidence also indicates that
occasions, Jim Hoyle allegedly also called and req
missing company route keys - He implied or
understood it, req that petitioner could go
to go back to base business and steal some
Jim made threatened petitioner with police ar
Evidence shows that at none of these inst
petitioner reprimanded and later, Jim Hoyle
that the keys had been found. The evidence
Several instances when petitioner was accused by Sup
complaint by customer, he was never repri
Because these actions were pervasive, Peti
petitioner was accused of having done somethi
these managers and Supervisor retract their
and because he was never reprimanded, a
factfinder could believe that they were solely
intimidate victims and possibly frighten

Infact, the evidence shows that about NO petitioner overheard a conversation between two supervisors, both of whom are white; (Powell and [illegible]) apparently plotting to incriminate him by [illegible] something in his van to get [illegible] evidence [illegible] the city of [illegible] with [illegible] there was a drug search. the search [illegible] at that [illegible] in the City [illegible] employment with respondent. Evidence [illegible] petitioner filed a complaint with Sam [illegible] about [illegible] that [illegible] 3 days before these [illegible] [illegible] to discuss business [illegible] accused him [illegible] [illegible] it.

Because these actions [illegible] on [illegible] petitioner [illegible] [illegible] NCDL [illegible] said complaint however the evidence [illegible] [illegible] On or about February 17, [illegible] with the US-EEOC [illegible] and was interviewed on Feb. 26 [illegible] EEOC [illegible] information about petitioner and [illegible] [illegible] the [illegible] Sam [illegible] et al had been notified of the EEOC [illegible] RACE [illegible] February [illegible] petitioner [illegible]

concerned, called the City of Tarboro police Dept.
the Edgecombe County Sheriff's Dept. and Spike [illegible]
Bo[illegible]kin for 19 minutes and Capt. Smith for
respectively. The evidence shows that those two
[illegible] petitioner [illegible]
or [illegible] someone [illegible]
[illegible] a [illegible]
[illegible] Each
call [illegible]
[illegible] no [illegible]
[illegible]
[illegible]
[illegible]

Furthermore, the evidence [illegible] on April
petitioner filed [illegible]
[illegible]
[illegible] to proceed [illegible]
[illegible]
[illegible] petitioner was [illegible]
his [illegible] 1 day after [illegible]
for [illegible]. A scheduling order,
and discovery commenced. On
[illegible]
[illegible] provide with interrogatories and [illegible]
Respondent [illegible]
March 27, 2000, granting respondent [illegible]
and denied petitioner's.

* Rosebro V. Garrison, 528 F.2d 309, 310 (4th Cir. 19

Petitioner filed a timely appeal on an int
pursuant to the Sixth Circuit's Local Rule 34
. Judge panel entered judgement on Feb. 6,
. The District Court's judgment Petitioner filed a M
for a certificate of appealability pursuant to
to F.R.A.P 35 & 40 [illegible]. The En banc
denied [illegible]
on March 19 . On or about March 30, 2011
Appellate Court and [illegible] of his request
District En banc [illegible] which is

C (vii) Argument:

(A) The court of appeals erred in holding that petitioner did not establish a prima facie case under McDonnell-Douglas, _____

Under Title VII of the Civil [illegible]

Indirect → See Ex. "It shall be unlawful employment practice for [illegible] to refuse to hire or to discharge any individual, or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. Sec. 2000e-2(a)(1)

Recognizing the difficulty of proving discrimination, this Court established a framework that shifts the burden of production [illegible] indirect evidence. McDonnell-Douglas v. Green, 411 U.S. 792 (1973). decisions in Texas Dept. of Comm. Affairs v. Burdine, 450 U.S. 248, 254 (1981) and St. Mary's Honor Ctr. v. Hicks, 509 U.S. 502 (1993). This is the burden of production and not of proof in Title VII - discrimination

cases. The 4th Circuit held that a plaintiff all
discrimination in violation of Title VII, c
a prima facie case of discrimination by pre
actions by the Employer that, if unexplained
than not show discrimination. Although
established a three step process as follow
1) plaintiff must come forth with evidence
sufficient a prima facie case of discrim
raising a presumption that the Employer
2) once a prima facie case is shown, the
production shifts to the Employer to
[illegible]
3) once the defendant comes forth with evi
the presumption of discrimination disap
plaintiff bears the burden to prove
pretext motives for employer's
decision.

Although some courts, see+ have expressed reser
further steps, the Fourth Circuit has fai
See Hicks, supra, and even explicit
Circuit case, see O'Connor v. Consolidated Coin C
517 U.S. 308 (1996). Since neither party
court disagrees McDonnell-Douglas, supra, is pl
this case, pleading, discovery, motion, the

+ Wilson v. AAA Plumbing, 87 F.3d 1024 (8
Mitchell v. Worldwide Interiors Inc. Co., 967 F.2d 5

The prima facie case (step 1) not only permits a factfinder to find discrimination, but mandates the presumption, absent the introduction, for the employer. The employer, however, can rebut this presumption by producing evidence that the employer acted for a legitimate nondiscriminatory reason. The employer does not have the employer's motive, but only the burden of production.

A prima facie case creates a presumption that the employer's action was motivated by discrimination. The employer can rebut this presumption by producing evidence that its action was motivated by a legitimate nondiscriminatory reason. If the employer does not rebut the presumption, the plaintiff is entitled to judgment as a matter of law. If the employer rebuts the presumption, the plaintiff must then prove that the employer's reason was a pretext for discrimination.

To satisfy the burden of production, the employer must introduce evidence which, taken as true, would permit the conclusion that there was a nondiscriminatory reason for the adverse employment action. The employer need not persuade the court that it was actually motivated by the proffered reason. It is sufficient if the employer's evidence raises a genuine issue of fact as to whether it discriminated against the plaintiff. To accomplish this, the employer must clearly set forth, through the introduction of admissible evidence, the reasons for its action.

or similar result. Not so. The conflict i[illegible]

that it creates an "uneven playing field" +

appellant is more or less likely to prevail [illegible]

depending on which circuit hears his [illegible]

is because depending on which framework is

[illegible]

[illegible]

[illegible] O'Connor, [illegible]

courts may be inclined to [illegible] a [illegible]

([illegible] employee) [illegible]

[illegible] very [illegible]

[illegible] O'Connor). And that "the purpose [illegible]

[illegible]

[illegible]

[illegible]

[illegible] was based on [illegible]

[illegible], O'Connor, 517 at 312. [illegible]

[illegible] 324 [illegible] (1977) [illegible] available [illegible]

[illegible] clearly

[illegible]

(a) Some courts [illegible] alone

[illegible]

Denison v. Swaco Geolograph Co., 941 F.2d

McAlester v. United [illegible], 851 F.2d

512 (10th Cir. 1988) and Glass v. Philadelphia,

188 (3rd Cir. 1994)

(c) First look, perhaps most (especially following the
It is clearly obvious that Stanishad evidence r
not is it is applicable to this case.
(b.) Some courts, as did the District Co
use a 3-Step framework as follows: Plai
Should [illegible] the burden shifts to the
to [illegible] make a prima facie case against him
[illegible] Contrary to the [illegible]
[illegible] Jones v. Bro
Med. Ctr, 137 F.3d 1306 (11th Cir 1998), Little v. United Technologies, 103 F.3d 956 (11th Cir. 1
Valdez v. San Antonio Chamber of Commerce, 97.

Conclusion

?/ Incl. 1

~~1, 33 F.3d 1514 (11th Cir. 1994)~~

Jet Star, Inc. v. McLeod

Heller v. EBB Auto Co., 8 F.3d 1433 (10th Cir. 1993)
956 F.3d

Hunter v. Allis Chalmers, Corp. D.V., 797 F.2d 1417

O'neal v. Ferguson Construction Co., 237 F.3d 1248.

Roseboro v. Garrison, 528 F.2d 309; [illegible]

Wilson v. AAA Plumbing [illegible] F.3d [illegible]

[illegible] 7th [illegible]

[illegible]

[illegible] bank [illegible]

Anderson v. City of Bessemer City, 470 U.S. 1504 84 L. Ed. 2d 518 (1985)

U.S. v. U.S. Gypsum Co., 333 U.S. 364, 68 S. Ct (1948).

[illegible] v. [illegible], 358 F. 2d 524, 530 [illegible]

[illegible] v. [illegible], 84 [illegible] F. 2d [illegible], 1016

[illegible] v. Edward [illegible] [illegible]

[illegible]

[illegible] v. [illegible]

[illegible] v. City [illegible], 91 F. 3d

[illegible] v. City of Minneapolis, 211 F. 3d

[illegible] v. [illegible]

[illegible] v. [illegible] Corp., [illegible] F. 2d [illegible]

[illegible] v. Board of Trustees of the Univ. [illegible]

[illegible] (1993)

LeB[illegible] v. [illegible] Tel. Co., [illegible]

V[illegible] v. [illegible]

(c) Some courts, perhaps most (especially following the H
use a 4-part framework as follows: (1)
member of a protected class (2) he was performi
satisfactorily (3) suffered adverse action and (4
circumstances (can similarly situated employees o
a similar manner). Id. (emphasis added). Compare
Chuang v. Univ. of Cal. Davis, 225 F.3d 1115 (9th
, Talley v. Bravo Pino Enterprises
1241 (6th Cir. 1995) with Peterson v. City of
Grand Rapids, 66 F.3d 127 (8th Cir. 1995),
v. Glenbrook Security Services, 123 F.3d 38

footnote

business setting, whether the plaintiff-employee
circumstances was adopted to aid
objective action, but rather as a
using indirect evidence, there is —.
In this case, and using this 4-part framework
that he established a prima facie case as follo
is a black man and thus a member of the protected
he performed his job not meeting Defendant's
this explanation pretextual. Significantly, he

and was given an Extra Rate (62). He also was never never Clu-Klux-ized and never warned for any abhorren
[illegible] He subpoenaed numerous adverse witnesses including Klan
Hall's claim on April 13, 1979. ... including Sworn
Among other things, the Evidence, in this trial, s
Several instances Sam Nelson and Jim Hinds, (
at home later that night and eventually a
home. Later on Sheriff Thompson's Packages he was
the night before. Each time he called, he threatened
only to call back later and [illegible]
-on Rose and he will never report anybody. Similarly,
did the same thing to the [illegible]
[illegible] Whereupon, plaintiff began to receive
an identifiable nexus between Hall's threats and
to call the police on a whim.

[illegible] On February 19, 1
called Lt. Coffman at Jackson [illegible] and
Wayne Smith of the Edgecombe County Sheriff's
with Mrs. Hall and 3 minutes respectively. Both
[illegible] perhaps through deliberate admonition, Hall
[illegible] some one from Confederate Knights called
Greenville, reporting a conspiracy with Dillon and
Hall. That the description of the van and driver
perhaps. Given these facts [illegible]
-ulative nature that person was the Grand Dragon of
At that time, I did not [illegible]

only possible target. [illegible]
Recognizing that seldom in those instances will
'eye witness', especially at that time of the nig
is left to prove such a material fact using indir
Burdine, 450 U.S. at [illegible]). Accordingly, in order for o fact
that 'Some one else' placed these calls to the
[illegible] and is [illegible]
alia, said factfinder must also assume the fo
finding this 'Some one else' must know that pe
[illegible] surgery, scrubbing, some one else
move and shift patient's arms. Thirdly, 'Som
knows [illegible] a 'stress' employee
[illegible] can rather than an independent con
their own non-company vehicle. Then, because
placed on weekdays when petitioner works mid
when is not [illegible] must also know
these calls were usually placed at times when
[illegible] statements, 'Someone else' must also know
[illegible] petitioner [illegible] [illegible] locations. Other
direct calls to petitioner completed shortly
in the normal course of respondent's business is
from [illegible] [illegible] [illegible]). 'Some one else'
[illegible] [illegible] trace petitioner's [illegible]
"Someone else" must arrive at respondent's [illegible] lo
petitioner [illegible]) at 8:30 p.m. Then 'Some else' would
petitioner completes all his pre-route preparation

BEST AVA

van Tlan, "Someone else", would have had to follow his stop in Durham / RTP, then back to the car because petitioner has to wait for anywhere between 1 and 2 hours for Otter comes to bring him his "Someone else" would have to wait also. Then, "Someone else" has to follow petitioner and wait until he makes car deliveries in Rocky Mount, then Wilson, then Tarboro (Edgecombe County), then re-fuel, then car location. All told, over 300 miles and 8 hours because petitioner's route varied on mondays and "Someone else" would have to find [illegible] "Someone else" would have had to re-trace petitioner's drive that time, after the Greenville stop. "Someone" had to follow petitioner to Washington, N.C. All miles and over 8 hours, "Someone else" would have to the various times that petitioner arrived at each delivery, why would "Someone else" go through [illegible]? In other words, what is the motive?

Whereas, petitioner submits to this high court, the "Someone else". Respondent made phone calls, and had all the information needed to do so. Respondent had the opportunity. The evidence in this case provides a reasonable inference that a reasonable factfinder would find in petitioner's favor. Respondent had a racial discrimination. We know that, because the a black man driving a Dalton Company van.

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charged description that provide a clearly id nexus between these adverse actions and petitioner but not for those calls placed by respondent and Capt. Smith's previous pinup also, those would not have engaged in the retaliatory acts [illegible] and [illegible] actions.

4 that petitioner was never disciplined for his participation in sexually explicit [illegible] Mor poignantly, Deputy Smith [illegible] Smithfield Foods or not that was and can the same or similar [illegible] actions.

(B) The pervasiveness and severity of the [illegible] case, warrants the question, whether [illegible] with such conduct in the [illegible] that when the workplace is permeated with [illegible] Here is sufficient severe or [illegible] the conditions of victims employment, [illegible] See Harris v. Forklift Systems, Inc., 5 We also know that "Title VII does not [illegible] merely affect a person's feelings but that the statute is not limited to such harms. Harris, Ibid.

Recognizing the inherent [illegible] in [illegible] hostile environment on a daily Nov. 16, 1993, filed

Sam Nehrand Jim Hoyle, the two highest ran
petitioner learned that no meaningful ~~steps~~
taken to stop those actions. Therefore, on or bef
he again filed a complaint with the North Carolina
Labor. The sworn testimony shows that Petit
[illegible] this complaint but nothing [illegible]
action from the petitioner filed a [illegible]
[illegible] on February 20
[illegible] Chief
[illegible] Richard Spencer [illegible]
[illegible] the
[illegible] was informed by [illegible]
RACE [illegible]
[illegible] this is a
[illegible] that same week (as if in
response to [illegible] 2019) petitioner [illegible] to get another s
[illegible] him to call 911 for help
[illegible]

[illegible] shows that petitioner
[illegible] they were in violation of federal law [illegible]
[illegible] by the EEOC that a
charge had been filed against them. Therefore, see petition
intentional and in total disregard of [illegible]
negligence or of the [illegible]

X this awareness and the [illegible] to stop these actions
causal connection between the adverse actions and petitioner's
but for petitioner's race, respondents took those actions

conduct and its results, quite as if they had ultimately as the employer's pleas", Reeves Boca Raton, 524 U.S. 775 (1998). In fact, [illegible] inaction, [illegible] respondent's state of mind" and can [illegible] reasons indicate", See Kolstad V. America [illegible] U.S. 5 10 (1999).

(C.) Under the McDonnell-Douglas, supra, 3-part [illegible] a prima facie case has been established, the production shifts to the employer to articulate discriminatory reason for its actions. Evidence cited by the employer to explain its decision in a discriminatory manner is especially relevant. 411 U.S. at 804. In Hicks, this high Court rejected the defendant (employer's) proffered [illegible] whatever fact to infer the ultimate fact of [illegible] discrimination and ..... [illegible] additional proof required." Id. at 511.

Accordingly, in this case, the sworn evidences [illegible] the time of pertinent termination, he asked [illegible] he was being terminated. Mr. Hoyle, provided [illegible] to say, that the Corporate Human Resources [illegible] will send a letter to him, stating the reasons [illegible] was received by plaintiff. Thereafter, when [illegible]

for unemployment compensation at the N.C. E
Security Commission, he was unable to provide ar
he was terminated. In petitioner's interrog
dated October 18, 1999, respondent was ask
reasons for their discriminatory actions, no
question was provided. In petitioner's sworn
Dec. 1, 1999, he was asked several question
steps at several times he was asked to m
respondent's employ and he provided certain
questions accordingly. Thereafter, the sworn
~~that test~~ that, in their cross-motion for
judgment (Cross-Motion), respondent
for their adverse-discriminatory actions, it
was "asked to move to Town of Grafton
refused to do so. Therefore, he was [illegible]
evidence from the N.C. Dept. of Revenue
plus an official map of all towns, cities
this state, shows that there is no town
named Grafton, N.C. Therefore, this asser
false. Recognizing the falsity of this a
respondent ~~then~~ contends with the cr
their asserted reason is a "mistake". W
petitioner wonders what is respondent mis
that petitioner was supposed to move to
but didn't. Or that Grafton, N.C does
Wherefore, a reasonable factfinder, must find

that ..respondent's asserted reasons is not b
Credence., Fuentes V. Perskie, 32F.3d 759(3
is this "merely a pretext for unlawful disc.
V. Casio Inc. 42F.3d 825 (3rd Cir. 1994). A
reasonable factfinder could also conclude the
asserted reason is suspiciously Vendor
supra, ... and thus reject it. Could
permit the trier of facts (fact finder) to
ultimate fact of intentional discrimination
U.S. at 134. Indeed, 'proof that the de
explanation is unworthy of credence, is one
circumstantial evidence that is probative
discrimination', Reeves, Ibid.

Additionally, recognizing that pursuant to the Fourth Circ.
petitioner was required to address specific ci.
Evidence and material facts and issues, contained
Court Judgment of March 27, 2008 OR point
in said Judgment, is the District Courts dism
April 12, 1999, plaintiff refused to make a C
n.o.c., because we did not know where it was to
not feel comfortable stopping there! We Know that
was also made by respondent and that it is
know that respondent contends that this is a
a reasonable factfinder could con
respondent's asserted non-discriminatory reason

Therefore, petitioner has proceed forma pauperis
herein ... to waive the cost of this
petition. Rule 43, ...

finding

judgment, was likewise, a "mistake" and "erroneous". Anderson V. City of Bessemer City 105 S.Ct. 1504 84 L.Ed.2d 518 (1985). Whereupon along with the other incorrect facts and issues judgment, must leave a definite conviction, that the District Court mistake in the finding of fact" and thus an reversal of the order, See. U.S. V. U.S. Gypsum 364, 68 S.Ct. 525, 92 L.Ed 746 (1948).

(C) The Circuit Court is in violation of Rule 10, in because
Supreme Court, it departed from the accepted and usual Judicial proceedings, by denying an en banc rehearing a poll of its members.

In this case, petitioner has presented numerous issues that [illegible] en banc, because the decision conflicts with those of Fed. circuits but not limited to the Circuit Court [illegible] dangerous. Until this [illegible] en banc [illegible] Specifically, petitioner has shown that the [illegible] with regards to issue 1, he performed his duties in the [illegible] pet. pgs __. with regards to his supervisors [illegible] with regards to issue 8., he has [illegible] (hand written), on April 12, 1999 acting [illegible] pg 4 [illegible] dismissed on April 23, 1999.

- 21 -

With regards to issue 1, respondent's brief argues that petitioner failed to establish actual malice, namely that he [illegible] Crawford, N.C. at false. per. page ——— contends that he

With regards to issue 4, petitioner's brief argues that [illegible] intentional discrimination. Indeed, the ultimate [illegible] determination could [illegible] the [illegible] The Circuit [illegible] disregarded evidence favorable to [illegible] Same time [illegible] issues favorable to [illegible] Cannot also fail to draw all [illegible] [illegible] favorable to petitioner is [illegible] but also to [illegible] (Rawlings, 726 F.2d at 730).

~~The Civil Rights Act of 1991 (1991 Act) [illegible] cases [illegible] for [illegible] and [illegible] back pay [illegible] when an employer is [illegible] with malice or with reckless indifference, 42 U.S.C. 1981a.~~ Malnar v. Bush, 32 F.3d 1481, 1486 (11th Cir. 1994). See also Kolstad, 527 U.S. at 526. Petitioner argues that respondent in this case did in fact discriminate with malice or with reckless indifference, see [illegible] He has also shown that a reasonable fact finder could find that such discrimination must also be accompanied by [illegible]. Therefore such a finder of fact in this case, should find [illegible] See Hicks, 509 U.S. at 511

~~Back pay award~~ is intended to restore an
employee to the same position he would have enjoyed if no
offense had not taken place, See Kirsch V. Fleet
149. The "inextricable corollary" rule of Title VII
allows a plaintiff (petitioner) to raise all
retaliation, when such issue arises out of
Nealon V. Stone, 958 F.2d 584, 590 5th Cir 1992
discrimination. If there is a causal connection
between an employee's adverse action
and an employee's protected activity,
Title VII generally [illegible]
to petitioner's [illegible]
can be [illegible]
Congress so that, because petitioner suffered
adverse while in [illegible] employment and then was
1 day after he filed his lawsuit, such [illegible]
[illegible] a retaliation for [illegible]

An employer is ~~not~~ liable for the
co-employee's unlawful acts but not
for [illegible] 342 F.2d 1010, 1016 (1988). The
is certainly liable for unlawful discriminatory
supervisor acting within the scope of his employment
~~Faragher v. City~~, 524 U.S at 775. And an
employer is liable for the actions of its agents
[illegible] within the scope of his
employment.

~~In~~ It a recent [illegible] adopted the

articulated in Kolstad, supra, that [illegible] is vicariously liable for its managers decisions where are contrary to the employer's Good Faith efforts to Title VII. Petitioner Contends that, in this case not make a Good Faith Effort to comply with Title, non-discrimination [illegible] Title VII. Because [illegible] filed his RACE discrimination Charge with the Feb. 2nd was investigated on Feb 2 thru [illegible]. The [illegible] the EEOC informed respondent, that a Charge had been filed against them. Yet the [illegible] the EEOC [illegible] continued. In fact, respondent held a [illegible] the EEOC for example after respondent was not race Charge, they had discuss it with petitioner, they was [illegible] against him because of a Sworn Affidavit these actions fully Support a reasonable fact finder would [illegible] that a Good Faith Effort, But respondent did no such [illegible] this and [illegible] the race discrimination [illegible]. This a reasonable fact finder would [illegible] was no Good Faith, rather respondent acted as was part of their policy, Bad Faith.

Wherefore, on the basis of the foregoing reasons entitled to punitive and compensatory damages, Jury in accordance with Sec 1981a.

(D.) The Circuit Court erred in granting respondent's motion for summary judgment while denying p

Pursuant to F.R. Civ P Rule 56, Summary judgment is appropriate when there is no genuine issue as to any material facts in a case. A Civil case may be decided by a jury only if there are disputed issues of material fact in the case. Therefore, if the case presents at least some disputed material fact, summary judgment is inappropriate. Where reasonable persons could reach different conclusions, the motion for summary judgment should be denied.

Wherefore, petitioner contends that here a clear and present disparity among the various appeals. Specifically, the conflict lies in the burden of the movant in relation to a particular expectation. Thus the Courts of Appeal have a circuit split regarding what they should consider in ruling on Rule 56." (Quoting at 149, since Rule 56 mirrors Rule 50).

In this case, the focus of the disparity is the various "pretext-plus" standards used by the Court judgment motion under Title VII, disparate In this high court, in Hicks, supra, made clear fact finder's disbelief of the defendant's proffer not sufficient to support a plaintiff's verdict. Rather

C. ALLHAKA, 4. REFERENCE: EMPLOYMENT DISCRIMINATION AND CIVIL RIGHTS AND STATE COURTS, VOL. 11, 1995

must show that the asserted reasons are fal
real reason is discrimination. The circuit cou
divided on the issue of what quantum of ev
plaintiff must by a plaintiff not only to avoid summ
also to prevail, ~~in a [illegible]~~

(a) Some circuit courts use the "pretext-only" sta
~~this~~ a plaintiff to establish a prima facie ca
the employer's proffered reasons are false or
circumstances permitting no contrary inference and
~~inconsistent~~ with the Hicks/Supra Decision. Compare Ca
Torre v. Casio, Inc., 42 F.3d 825 (3rd Cir. 1
v. City of Fort Myers, Fla., 91 F.3d 922 (7th
Basset v. City of Minneapolis, 211 F.3d 1097,
~~(4th Cir. 1986)~~ and Stewart v. Rutgers, The S
426 (3rd Cir. 1997).

b. Other courts require a more substantial s
plaintiff's part, by requiring that the pla
establish a prima facie case, then demonstr
the employer's reasons are false or unwo
and then show that the real reasons are
— this is the "pretext-plus" standard. T
Standard relies on the premise that the plaintiff
ultimate burden of persuasion at all times, it i
with the Hicks/Supra decision. Compare and Co

v. Xerox Corp., 18 F.2d 836 (1st Cir. 1994), Trs of Trustees of the Univ. of Alabama, 91 F.3d 1449 (11 LeBlanc v. Great American Insurance Co., Cir. 1993) and Villanueva v. Wellesley College Cir.).

In this case, petitioner contends that respon crossed [illegible] the same burden of he does. Furthermore, it is also important because, respondent crossed, they cannot [illegible] "non-moving party", so that, the District Co that "when making the summary judgment the facts and all reasonable inferences must light most favorable to the non-moving party error. It is also important to note that Rule requires an affidavit.

Furthermore, the Third Circuit's assertion that [illegible] produce di [illegible] employer should propose no discr basis of race; which is a "subsidiary proposition a genuine issue of material fact", see A-7, is in with the decisions in the cases, supra. It is therefore the Standard is a pretext-only or a pretext-plus, is that petitioner produced a wealth of [illegible]. Recognizing that pursuant to rule 401, Fe [illegible] "a tendency having a tendency to

existence of any fact or issue that is of consequence to the determination of the action more probable or less probable than it otherwise would be, is probative.

Accordingly, plaintiff provided sworn interrogatories, sworn deposition, attachments to motions and exhibits all in support of his case. Specifically, he provided a copy of the phone record indicating the [illegible], time and telephone number of [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] B, 1999 [illegible] [illegible] N.C.

Wherefore, [illegible] urge the Court to compare [illegible] [illegible] five most recent Title VII cases [illegible] ~~[illegible]~~ Harris, 510 U.S. 17, O'Connor, 517 U.S. 308, Faragher, 524 U.S. 775, Kolstad, 527 U.S. 526 and Reeves, 530 U.S. 133. All five cases reversed. Particularly noteworthy ~~[illegible]~~ is the Court's own admonishment in O'Connor, Ibid., to the various circuits, to consider cases were there may be "very thin evidence". Such is not the case [illegible]. Because [illegible] produced a wealth of [illegible] [illegible], respondent did not produce any. Not even [illegible]. Wherefore, this case merits reversal.

Letter to Clerk of Court

(xiii) Conclusion

No other ~~Civil~~ case, perhaps in the entire history of ~~the~~ our Jurisprudence merits review, as does ~~this one~~. Therefore, for all the foregoing reasons, Petitioner respectfully begs this ~~h~~ Court to grant this petition for writ of ~~c~~ certiorari

Respectfully Submitted,

This the ___ of May, in the year of our ~~L~~ Lord, 2021.

Signed: _____

petitioner, pro se.